

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Carlos del Pozo Losada et al.

Group Art Unit: 1625

Serial No.: 10/523,172

Examiner: Solola, Taofiq A.

Filed: September 1, 2005

Confirmation: 6504

For: Total Synthesis of Myriaporones

**RESPONSE TO NOTICE OF ALLOWANCE AND FEES DUE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Notice of Allowance and Fee(s) Due dated November 26, 2008.

Applicants note that original claims 1-49 were restricted in the Office Action of October 10, 2007 into Groups I-XIII. In response to the Restriction Requirement, Applicants elected with traverse Group I (claims 1-22 in part, drawn to compounds and compositions thereof not having a pyrone ring). Applicants maintained Groups XII (claims 23-24, drawn to methods of using) and XIII (claims 25-34, drawn to process of making compounds) during subsequent prosecution as withdrawn claims. However, Groups II-XI<sup>1</sup> were canceled in

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<sup>1</sup> The subject matter of Groups II-XI was organized by the Examiner as follows: II (claims 3-6, 8-9, and 18-22 in part, drawn to compounds and compositions thereof having a pyrone ring), III (claim 35, drawn to non-heterocyclic compounds), IV (claims 36-37, drawn to non-heterocyclic compounds), V (claims 38-40, drawn to non-heterocyclic compounds), VI (claim 41, drawn to a process of making an intermediate compound), VII (claim 42, drawn to a process of making a second intermediate compound), VIII (claim 43, drawn to a process of making a third intermediate compound), IX (claim 44, drawn to a process of making a fourth intermediate compound), X (claims 45-47, drawn to non-heterocyclic compounds), XI (claims 48-49, drawn to non-heterocyclic compounds).

response to the Restriction Requirement as well as in response to the finality of the Restriction Requirement in the Office Action dated December 13, 2007 coupled with an objection to claims 3-6, 8-9, and 18-20 for containing a non-elected invention.

In the Comment on page 2 of the Notice of Allowance and Fee(s) Due dated November 26, 2008, the Examiner states that the invention “relates to myriaporones, composition and process of making thereof,” and that the “rejections of claims 1-24 are withdrawn” and “[a]ccordingly, the restriction of claims 25-34, process of making is now withdrawn and the claims are now rejoined.” Applicants thank the Examiner for the courtesy of clarifying these statements in response to a telephone call on February 4, 2009 from Applicants’ representative Michael Willis. In the telephone call, the Examiner confirmed that claims 23-24 (Group XII according to the original Restriction Requirement) and claims 25-34 (Group XIII) are rejoined and allowed along with Group I (claims 1-22). While the Examiner noted in the phone call that the purpose of the Comment on page 2 was to set forth that the restriction requirement was withdrawn, Applicants understand that the rejoinder was with respect to Groups XII and XIII (drawn to methods of using and making the compounds of Group I) and not with respect to the subject matter of Groups II-XI. Applicants reserve the right to prosecute Groups II-XI in one or more subsequent applications.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this paper to Deposit Account No. **50-3732**, Order No. 13566.105013. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is

hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-3732**, Order No. 13566.105013.

Respectfully submitted,  
King & Spalding, LLP

Dated: February 19, 2009

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